

KOLZ 98.3 FM STEREO
Bentonville, AR

KKEG 92.1 FM STEREO
Fayetteville, AR

Demaree Media, Inc.

**ORIGINAL
FILE**

TARGET VISION OF NW ARK
CBN TNN MTV ESPN CNN

KFAY 1030 AM STEREO
Farmington, AR

October 29, 1992

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Mr. Michael C. Ruger
Chief, Allocations Branch
Mass Media Bureau
Federal Communications Commission
2025 M Street, N.W.
Washington, DC 20554

By: Federal Express

RE: MM Docket #92-176

Dear Mr. Ruger;

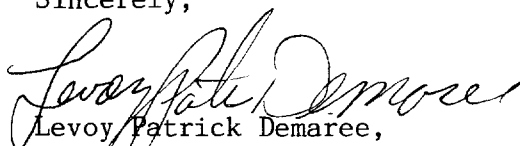
Transmitted herewith is an original and 3 copies of Demaree Media, Inc.'s Reply Comments in the matter of amendment of section 73.202(b) table of allotments, FM broadcast stations (Bentonville and Mountain Home, Arkansas).

Enclosed is a self-addressed stamped envelope for your convenience in returning the extra copy of this letter dated and stamped by your office.

This will certify that neither the applicant nor any party hereto are subject to denial of federal benefits pursuant to section 5301 of the Anti-Drug Abuse Act of 1988.

If you have any questions concerning these Reply Comments please do not hesitate to contact me at P.O. Box 878, Fayetteville, AR 72702 or telephone (501)521-5566.

Sincerely,



Levo Patrick Demaree,
President
Licensee of KOLZ (FM)
Bentonville, AR

ch/LPD

P.O. Box 878
1780 Holly Street

Fayetteville, AR 72702

No. of Copies rec'd
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(501) 521-5566

FAX (501) 521-0751

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Before The
Federal Communications Commission
Washington, DC 20554

NOV - 3 1992
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Amendment of Section 73.202(b))
Table of Allotments,)
FM Broadcast Stations)
(Bentonville and Mountain Home,)
Arkansas))

MM Docket No. 92-176

To: Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

REPLY COMMENTS

Now comes Demaree Media, Inc. ("Demaree"), by its President, in accordance with the provisions of Section 1.420(b) of the Commission's Rules, hereby submits its Reply Comments in this proceeding.

The Commission has proposed that the FM Table of Allotments be amended to delete the presently assigned FM Channel 252C3 at Bentonville, Arkansas, amend the license of Radio Station KOLZ(FM) to specify operation on FM Channel 252C2, and substitute FM Channel 232A for the presently assigned FM Channel 252A at Mountain Home, Arkansas. In response to the Notice of Proposed Rulemaking and Order to Show Cause issued in this proceeding, Mountain Home Broadcasting Corporation, ("MHBC"), licensee of Radio Station KTLO(FM), A&J Broadcasting Co., ("A&J"), licensee of Radio Station KCTT(FM), Yellville, Arkansas, and Twin Cities Broadcasting, Inc., ("Twin Cities"), licensee of Radio Station KOZX(FM), Cabool, Missouri, through

counsel, filed joint Comments and Counterproposal in this proceeding. This filing seeks the re-allotment of several channels in the respective communities and, included as an exhibit, shows that those counterproponets are in full agreement with the changes proposed. None of the changes proposed in the Counterproposal has a direct impact on the Demaree proposal, but does provide for a re-alignment of channels in the respective communities involved in the Counterproposal. To that extent, Demaree does not have any objection to the proposed re-alignment of channels as sought by the respective parties to the Counterproposal, however, as more fully documented below, that counterproposal cannot be accepted for consideration in this proceeding.

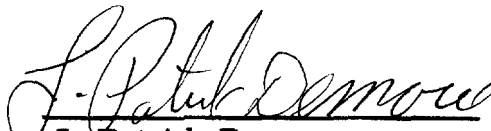
Examination of the Counterproposal reveals that its implementation is contingent upon a favorable outcome of a *Petition For Reconsideration* filed by Lake Broadcasting, Inc., in *MM Docket 89-120*. In that regard, the (contingent) Counterproposal filed in this proceeding is simply not acceptable for filing, for it is in conflict with *MM Docket 89-120*. The deadline for filing counterproposals in *MM Docket 89-120* expired long ago, and the filing of the (contingent) Counterproposal in this proceeding is barred until the Commission issues a final Report and Order in *MM Docket 89-120*.

All counterproposals are required to be acceptable for filing at the time of filing in order to be considered in the proceeding. See *Amendment of Sections 1.420 and 73.3584 of the commission's Rules Concerning Abuses of the Commission's processes ("Abuse of Process R&O"), 5 FCC Rcd 3910 (1990)*. "Counterproposals must be technically and procedurally correct at the time of their filing." (emphasis added). See *Fort Bragg, California, 6 FCC Rcd 5817 (1991)*, See Also *Broken Arrow and Bixby, Oklahoma and Coffeyville,*

Kansas 3 FCC Rcd 6507 (1988) , recon denied 4 FCC Rcd 6981 (1989) With the publication of the "*Abuse of Process R&O*" all parties were placed on notice that the Commission's Rules would be strictly enforced and that all Counterproposals must be technically and *procedurally* correct at the time of their filing in order to be considered in any proceeding. The (contingent) Counterproposal filed in this proceeding is in conflict with the ongoing proceedings in MM Docket 89-120, and, therefore, it fails to be procedurally acceptable under the standards of the "Abuse of Process" Report and Order, and must be dismissed.

WHEREFORE, in view of the foregoing, Demaree requests that the Commission dismiss the Counterproposal of MHBC, A&J, and Twin Cities filed in this proceeding, and that the Commission amend the FM Table of Allotments as proposed in the Notice of Proposed Rulemaking.

Respectfully submitted,
Demaree Media, Inc.



L. Patrick Demaree,
President

October 29, 1992

Demaree Media, Inc.
Attn: L. Patrick Demaree
Post Office Box 878
Fayetteville, AR 72702
(501) 521-5566
Fax (501) 521-0751


VERIFICATION

I, L. Patrick Demaree, after being duly sworn upon oath, state that the foregoing statements are true and correct to the best of my knowledge and belief.


L. Patrick Demaree

County of Washington)
) ss
State of Arkansas)

Subscribed and sworn to before me this 29th day of October, 1992.


Notary Public

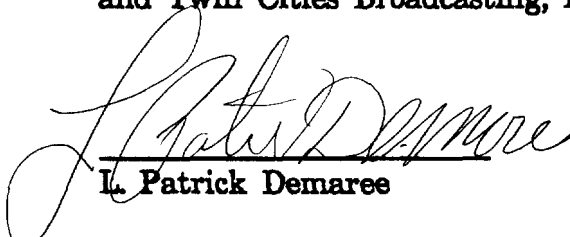
My Commission Expires 7-15-2000.

CERTIFICATE OF SERVICE

I, L. Patrick Demaree, certify that on this 29th day of October 1992, a copy of the foregoing "Reply Comments" was sent via first class mail, postage prepaid, to the following:

*Michael C. Ruger
Chief, Allocations Branch
Mass Media Bureau
Federal Communications Commission
2025 M. Street NW
Washington, DC 20554

William J. Pennington, Esq.
Attorney at Law
Post Office Box 4203
Wilmington, NC 28406
Counsel for: Mountain Home Bcsting Corp,
A&J Broadcasting Company,
and Twin Cities Broadcasting, Inc.



L. Patrick Demaree

* Via Federal Express